

August 26, 2010

Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: *Notice of Ex Parte Presentation* - CC Docket No. 01-92 and WC Docket
No. 07-135

Dear Ms. Dortch:

On August 26, 2010, CTIA–The Wireless Association® (“CTIA”) met with staff from the Wireline Competition Bureau’s Pricing Policy Division (“PPD”) to discuss traffic pumping issues in the above-referenced dockets. CTIA was represented by Christopher Guttman-McCabe, Vice President, Regulatory Affairs; Scott Bergmann, Assistant Vice President, Regulatory Affairs; Jacqueline McCarthy, Director, State Regulatory and External Affairs; and undersigned counsel; as well as the following member company representatives: Brian Benison, AT&T; Russ Merbeth, Cricket; Robert McCausland, Hypercube, LLC; Norina Moy, Sprint Nextel; Mike Fingerhut, Sprint Nextel; Garnet Hanly, T-Mobile USA, Inc.; Peter Connolly, Holland & Knight (for United States Cellular Corp.); Tamara Preiss, Verizon; Elaine Critides, Verizon Wireless. Commission staff in attendance were Randy Clarke, Legal Advisor to the Wireline Competition Bureau Chief, and the following staff from PPD: Albert Lewis, Chief; John Hunter, Deputy Chief; Jay Atkinson; Lynne Engledow; Dan Ball; and Douglas Slotten.

In the meeting, CTIA urged the Commission to take action now to address traffic pumping. Traffic pumping schemes are proliferating across the country; thus, Commission action in this area cannot wait for comprehensive intercarrier compensation reform. Consistent with the National Broadband Plan’s recommendations, the Commission should take “interim steps to address ... access stimulation.”¹ The Commission’s action in this area should address all types of traffic (including intra-MTA traffic) and all types of providers (including CLECs).

The discussion in the meeting followed the attached slide presentation, which was distributed to the meeting attendees.

¹ National Broadband Plan at 145, Rec. 8.1.

WILKINSON) BARKER) KNAUER) LLP

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This filing is made consistent with the Commission's ex parte rules.

Sincerely,

/s/

L. Charles Keller

Attachment

cc (email): Randy Clarke
Albert Lewis
John Hunter
Jay Atkinson
Lynne Engledow
Dan Ball
Douglas Slotten.

Traffic Pumping

**Presentation to
Wireline Competition Bureau**

**CTIA – The Wireless Association®
August 26, 2010**

Traffic Pumping – Introduction

- **FCC urgently needs to address the issue of traffic pumping in a manner that includes:**
 - All types of traffic (including intraMTA traffic); and
 - All providers (including CLECs).
- **Confluence of factors – including gaps in FCC rules, decisions on CMRS-CLEC interconnection, and need for ICC reform – has fueled:**
 - new and expanding versions of traffic pumping;
 - litigation; and
 - legal uncertainty.
- **The magnitude of the problems is significant and rapidly growing.**
- **FCC has the authority, ability, and record to address these issues.**

Background

- **FCC has recognized traffic pumping problem since 2007**
 - NPRM sought comment on access stimulation by CLECs;
 - NPRM sought comment on stimulation of non-access traffic;
 - CTIA comments noted that wireless carriers are harmed by traffic pumping as well.
- ***North County v. MetroPCS* Decision**
 - Failed to clarify whether compensation is owed under section 20.11 in obvious arbitrage situations;
 - Failed to provide guidance on process or rules for setting rates in cases where compensation may be due.
 - Resulted in:
 - Reduced CLEC incentives to negotiate reasonable interconnection agreements;
 - Procedural quagmire for industry;
 - Burden and confusion for state commissions and federal courts;
 - Overhang of uncertain liability; and
 - Patchwork of conflicting results.

An Expanding Problem

- **Wireless carriers are experiencing increasing traffic pumping volumes:**
 - From CLECs;
 - Of IntraMTA traffic.
- **Variations of traffic pumping include:**
 - free conference calling;
 - international bypass calling;
 - chat lines;
 - rehomeing numbers to create interMTA calling;
 - other arrangements to generate high volumes of terminating traffic.

A Path Forward

- **FCC must act quickly to address traffic problem.**
- **Remedies must address:**
 - All traffic, including interMTA and intraMTA traffic;
 - Charges imposed by all providers, including CLECs and ILECs.
- **CTIA supports remedies including:**
 - Finding that traffic pumping (and revenue sharing to generate such traffic pumping) is an unjust and unreasonable practice, such that no compensation is due.
 - Development of a mechanism similar to that applied to dial-up ISP traffic.
 - *E.g.*, if any LEC's traffic – including access as well as local termination traffic – is in excess of a 3:1 ratio of terminating to originating traffic, it should be subject to a default bill-and-keep regime.

Prompt FCC Action is Needed

- **Traffic pumping schemes are a significant and rapidly-growing problem.**
 - Litigation arising in states across the country;
 - Creating legal quagmire;
 - Likely to lead to balkanized set of rules;
 - Estimates indicate that traffic pumping costs the wireless industry more than \$190 million in annual long distance expenses alone. [Source: Connectiv Solutions, www.connectiv-solutions.com]
- **The FCC should not wait for comprehensive ICC reform.**
 - National Broadband Plan recognized traffic stimulation as an area that requires interim action.
- **Proposed solutions will allow:**
 - Wireless providers to continue to operate under national framework;
 - Wireless providers to continue to make massive network investments necessary to achieve goals of the National Broadband Plan.